

Karma M. Giulianelli (SBN 184175)
karma.giulianelli@bartlitbeck.com
BARTLIT BECK LLP
1801 Wewatta St., Suite 1200
Denver, CO 80202
Telephone: (303) 592-3100

Hae Sung Nam (*pro hac vice*)
hnam@kaplanfox.com
KAPLAN FOX & KILSHEIMER LLP
850 Third Avenue
New York, NY 10022
Telephone: (212) 687-1980

*Co-Lead Counsel for Consumer Plaintiffs in In
re Google Play Consumer Antitrust Litigation*

Paul J. Riehle (SBN 115199)
paul.riehle@faegredrinker.com
**FAEGRE DRINKER BIDDLE & REATH
LLP**
Four Embarcadero Center, 27th Floor
San Francisco, CA 94111
Telephone: (415) 591-7500

Christine A. Varney (*pro hac vice*)
cvarney@cravath.com
CRAVATH, SWAINE & MOORE LLP
825 Eighth Avenue
New York, NY 10019
Telephone: (212) 474-1000

Counsel for Plaintiff Epic Games, Inc.

Brendan P. Glackin (SBN 199643)
bglackin@agutah.gov
**OFFICE OF THE UTAH ATTORNEY
GENERAL**
160 E 300 S, 5th Floor
P.O. Box 140872
Salt Lake City, UT 84114-0872
Telephone: (801) 366-0260

Counsel for the Plaintiff States

Douglas J. Dixon (SBN 275389)
ddixon@hueston.com
HUESTON HENNIGAN LLP
620 Newport Center Drive, Suite 1300
Newport Beach, CA 92660
Telephone: (949) 229-8640

Counsel for Plaintiffs Match Group, LLC, et al.

[Additional counsel appear on signature page]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE GOOGLE PLAY STORE
ANTITRUST LITIGATION**

THIS DOCUMENT RELATES TO:

Epic Games, Inc. v. Google LLC et al., Case
No. 3:20-cv-05671-JD

*In re Google Play Consumer Antitrust
Litigation*, Case No. 3:20-cv-05761-JD

State of Utah et al. v. Google LLC et al., Case
No. 3:21-cv-05227-JD

Match Group, LLC et al. v. Google LLC et al.,
Case No. 3:22-cv-02746-JD

Case No. 3:21-md-02981-JD

**DECLARATION OF LAUREN A.
MOSKOWITZ IN SUPPORT OF
PLAINTIFFS' MOTION PURSUANT TO
RULE 37(c)(1) TO EXCLUDE TRIAL
TESTIMONY BY CARSON OLIVER**

Judge: Hon. James Donato

1 I, Lauren A. Moskowitz, declare as follows:

2 1. I am a Partner at Cravath, Swaine & Moore LLP, counsel to Epic Games, Inc. (“Epic”)
3 in the above-captioned actions.

4 2. I am admitted to appear before this Court *pro hac vice*. I submit this Declaration in
5 support of Plaintiffs’ Motion Pursuant to Rule 37(c)(1) to Exclude Trial Testimony by Carson Oliver.

6 3. I have personal knowledge of the facts set forth in this Declaration except as stated
7 otherwise. If called as a witness, I could and would competently testify to these facts under oath.

8 4. Google first served its Rule 26(a)(1) disclosures on November 9, 2020 and has amended
9 its disclosures seven times since then, most recently on August 25, 2023. Mr. Oliver is not identified
10 by name on any version of these Rule 26(a)(1) initial disclosures. Apple as an entity was listed, but
11 not a single Apple employee was named.

12 5. While fact discovery was still open, Google served a document subpoena on Apple,
13 pursuant to which Apple produced documents.

14 6. 113 fact witnesses have been deposed in this case. No Apple employee has been
15 deposed in this MDL, including Mr. Oliver.

16 7. The Parties exchanged trial witness lists on July 27, August 24 and September 12, 2023.
17 I have been told by counsel who participated in discussions concerning these exchanges that the Parties
18 agreed to three rounds of witness disclosures so that each Party could respond to the previously
19 exchanged disclosures by the other side as part of pre-trial exchanges.

20 8. Mr. Oliver was not listed on Google’s first witness list that was served on July 27, 2023.
21 Nor was Mr. Oliver listed on Google’s second witness list it served on August 24, 2023, four weeks
22 after receiving Plaintiffs’ first witness list. Mr. Oliver was not named as a witness until Google listed
23 him as a witness Google “may call” in Google’s third witness list, served on September 12, 2023.
24 Prior to September 12, 2023, no Apple witness had appeared on any of the Parties’ witness lists.

